

7. Controls for Other Development Types

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7. Controls for Other Development Types

7.1 Trading Hours

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7.1 Trading Hours

This section applies to commercial premises as defined in the Dictionary of the Hurstville LEP 2012 and approved by Council.

Standard Trading Hours

Standard trading hours are 6am – 12am (midnight), daily.

Extended Trading Hours

Extended trading hours are 12am (midnight) – 6am, daily.

The following matters need to be considered when assessing an application for extended trading hours:

- (a) Additional information to be submitted with the DA to include:
 - Detailed description of the activity and its potential impact on adjoining premises
 - Potential impact on the amenity of the area
 - Litter generation
 - Anticipated patronage numbers
 - Responsibilities of staff, staffing levels and qualifications (if relevant)
 - External and internal lighting
 - Security measures
 - Toilet facilities
- (b) Additional advertising requirements for extended trading hours DAs can be considered.
- (c) Referral of the DA to the NSW Police for comment and input.
- (d) Where appropriate, conditions of consent may include requirements for monitoring activities and operations for security, safety, noise, car parking or other related reasons.
- (e) Option of time limited consent where Council can review the business' operation after a designated time period, at which time additional controls may be placed on the business.

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7.2 Commercial Use of Public Footways

Please refer to Council's Public Spaces Local Approvals Policy (Appendix 2).

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Note: The State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 must be considered in relation to centre-based child care facilities.

7.3.1 Aims

The primary aims of this Section are to:

- Provide information for persons wishing to establish or modify a child care service;
- Adopt a positive, pro-active approach to planning child care centres - providing operators with a clear understanding of Council's requirements and why these requirements are important to the design of child care services;
- Clearly identify desired outcomes for specific requirements;
- Encourage the provision of high quality child care which meets the needs of the community;
- Minimise potential adverse impacts on the locality and broader environment as well as the natural and built environment, by providing effective control measures; and
- Ensure the integration of the facility within its environment is achieved so that the development reflects the existing streetscape and character of the locality.

7.3.2 Regulatory Authority

Child Care Centres are regulated through a national framework developed by Australian Children's Education and Care Quality Authority (ACECQA). Contact details are:

Australian Children's Education and Care Quality Authority
Level 15, 255 Elizabeth Street
SYDNEY NSW 2000
Ph: 1300 422 327
Email: enquiries@acecqa.gov.au

In NSW the responsibility for implementing the national framework developed by ACECQA and issuing licences for child care centres is the Department of Education and Communities (NSW). Contact details are:

Early Childhood Education Directorate
NSW Department of Education and Communities
Locked Bag 5107
PARRAMATTA NSW 2124
Ph: 1800 619 113
Email: ececd@det.nsw.edu.au

Nothing in this Section is to be taken as removing the need for compliance with the Children and Young Persons (Care & Protection) Act 1998, Child Protection (Working with Children) Act 2012 and the Children (Education and Care Services) Supplementary Provisions Regulation 2012.

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This Section in no way covers all areas of regulatory control. Applicants are advised to obtain the Act and Regulation and other preparatory material from the Department of Education and Communities prior to preparing detailed designs.

Other Guidelines

Cancer Council

Website: www.cancercouncil.com

- Cancer Council NSW Undercover: Guidelines for shade planning and design.
- Cancer Council NSW: The Shade Handbook
- Cancer Council NSW : Shade for the childcare services (Information Sheet)

Australian Competition and Consumer Commission

Website: www.productsafety.gov.au

- Baby and Nursery Products Information Sheets.
- Keeping Baby Safe: a guide to nursery furniture. Australian Government publication No 24.

Kidsafe NSW Inc

Website: www.kidsafensw.org

- Safety Information Sheets: Playground Safety
- Safety Information Sheets: Road Safety
- Safety Information Sheets: Water Safety
- Safety Information Sheets: Home Safety (for kitchen/laundry/office areas)

7.3.3 Related Child Care Operations

Several other forms of child care services are available in addition to centre-based child care services. These include Family Day Care, Home-Based Child Care and Mobile Child Care.

Mobile Child Care and Home-Based Child Care services require licensing from the New South Wales Department of Community Services. The Department should be consulted to obtain the requirements for these services.

Some forms of child minding services are considered Exempt Development (do not require a Development Application). Please refer to the State Environmental Planning Policy (Exempt and Complying Development) 2008 for further details. Providers of these services should also check with the NSW Department of Education and Communities as they may also require operator/provider approvals.

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7.3.4 Locational Criteria

Objectives

- i. Quality Child Care Centres are located on appropriate sites.
- ii. Sites used for the purposes of a Child Care Centre are compatible with the environment in which they are situated.
- iii. Due consideration is given to Section 79(c) of the EPA Act 1979 - the social and economic effect of that development in the locality.

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ISSUES	REQUIREMENTS
<p>General Preferences:</p> <p>The location of Child Care Centres in community focal points enhances accessibility to the broader population.</p>	<ul style="list-style-type: none"> Child Care Centres should be located close to or adjacent to community focal points such as local shopping centres, community buildings (libraries, churches, halls etc.), parkland, sports grounds and schools (where there is no major traffic conflict). Child Care Centres are not permitted on sites with any property boundary to a State Road (as listed under Appendix 1) due to reasons of traffic safety and amenity impacts (including air quality and noise). Proposals for Child Care Centres must be accompanied by a Transport and Parking Assessment Study provided by a qualified Traffic or Transport Consultant.
<p>Proximity to Undesirable or Hazardous Features:</p> <p>Proposals for Child Care Centres which are <u>located away from:</u></p> <ul style="list-style-type: none"> telecommunications towers large over-head power wires any other area which may reasonably be considered inappropriate if located near a child care centre, <p><u>will be favoured in terms of compliance with locational criteria.</u></p>	<ul style="list-style-type: none"> Approval is unlikely to be given for centres within 300 metres of any feature mentioned to the left column, unless the applicant can demonstrate evidence to support a variation to this requirement. Approval will not be given to a child care centre located closer than 55 metres to a LPG above ground gas tank or tanker unloading position. An analysis of any existing and/or potential site contamination is required to be submitted with any application for a child care centre. Where sites are, or may be contaminated, a report is to be submitted with the application prepared by a suitably qualified consultant. Child Care Centres are not to be located adjoining injecting rooms, drug clinics and any other such uses that may be inappropriate next to children.

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7.3.5 Size of Centres and Child Age Groups

Objectives

- i. Ensure that Child Care Centres are of a manageable size of overall number of children and minimize adverse impacts on the amenity of the surrounding areas.
- ii. Ensure that the number of spaces for under 2 year olds reflects the demographics of the local government area.

Requirements

Capacity

The maximum number of children to be accommodated within Child Care Centres in the Hurstville City Centre will be considered on its merits. Consideration will be given to the likely impacts on adjoining lands, compliance with the objectives of this plan, compliance with the objectives of the adjoining land zones, and Hurstville LEP 2012.

Age groupings

The minimum number of places for children in the under 2 year old age group is to be the same as the % of under 2 year olds in the 0-5 year old population as measured at the most recent census (at the 2011 census this was 35%). Where calculations produce a fraction their requirement is to be rounded to the nearest whole number.

7.3.6 Building Form and Appearance

Objectives

- i. Provide a high level of amenity to adjoining and surrounding properties.
- ii. Ensure buildings take into account the natural environment, topography, street hierarchy, urban form and adjoining development.

Requirements

Setbacks

Setbacks are to be considered on their merits. Consideration will be given to the likely impacts on adjoining lands, compliance with the objectives of this plan, compliance with the objectives of the adjoining land zones, and Hurstville LEP 2012.

Relationships to Adjoining Properties

- When considering the possible impacts on adjoining properties, particular consideration must be given to the location of:
 - Active outdoor play areas;
 - Classrooms and indoor play areas;

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- Windows and doors, particularly those associated with indoor play areas;
 - Verandahs;
 - Points of entry;
 - Pick-up and drop-off points; and
 - Any plant equipment which may be required within the context of the centre.
- Appropriate building orientation and good design will ideally eliminate the need for privacy screens. Privacy screens will be considered where it is deemed to be in the public interest and where they complement the overall appearance of the building.
 - The impacts of privacy and overshadowing on adjoining properties must be considered. Proposals should comply with Section 7.3.10 Visual Privacy and Acoustic Amenity.

Solar Design and Energy Efficiency

- The design of buildings should minimise the overshadowing of neighbouring private open spaces and/or windows to habitable rooms.
- Where a new building is being constructed for a Child Care Centre or alterations and additions proposed, shadow diagrams must be prepared and submitted showing the impact of a proposal on adjoining sites. Shadow diagrams need to illustrate the shadows cast at 9am, 12 noon and 3pm on 21 June, with particular emphasis on the impact on adjoining habitable rooms. Such diagrams must be prepared by an architect or surveyor and be based on an accurate survey of the site and adjoining development.
- Where adjoining development relies on solar access for heating or cooling systems, that access should be preserved.

7.3.7 Play Areas

Objectives

- i. Provide well defined play areas and functions within the playground.
- ii. Play areas must have adequate access to natural light.
- iii. Play areas must have adequate level of shade (whether natural or constructed).
- iv. Ensure play areas are well drained.

Requirements

Tree Preservation and Planting

- Planting within the playground is to include attractive trees and/or shrubs.
- Tree retention and new planting must take into account:
 - Complementing the built environment;
 - Effect on solar access, shading, wind deflection and temperature moderation;

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- Reduction of soil erosion;
 - Definition of play zones; and
 - Incorporation as play or educational features.
- Any poisonous, spiked or potentially dangerous plants and trees must be removed from the site prior to construction. Details of these plants/trees are to be provided with the Development Application.

NOTE: Clause 5.9 Tree Management and Preservation of Hurstville LEP 2012 applies to removal of trees. Council's Tree Management Officer will provide comments in relation to any significant tree on the site and these comments will be considered in the assessment of the application.

Recommended Species List

Council has produced a recommended species list used with permission from a brochure entitled "The Low Allergen Garden" produced by The Asthma Foundation of NSW and Dr Diana Bass. Council accepts no responsibility for any plant or tree listed below; applicants are advised to also carry out their own investigations into appropriate plants for child care centres.

The recommended species list is included in Appendix 1 and is offered as a guideline only. Because growing conditions vary widely throughout New South Wales, you need to consult a local horticultural professional on the best plants to use in your area.

Drainage

- The play space must be capable of rapid clearance of surface water. Conceptual drainage plans are to be outlined at the Development Application stage however, detailed requirements will be requested with the Construction Certificate.
- Where on-site detention is required, exposed drains must be suitably covered to ensure that children cannot gain access to the drain.
- Council's Engineering Division is to be consulted on appropriate drainage requirements.

7.3.8 Design and Spatial Requirements

Objectives

- i. Provide indoor and outdoor areas which allow for play.
- ii. Ensure Child Care Centres are safe and secure.

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Requirements

Outdoor Design

- Positively contribute to the physical, sensory, intellectual, creative and emotional development of each child.
- Suitably integrate with indoor play areas, allowing for attractive indoor and outdoor spaces.
- Incorporate adequate screening delineating several outdoor play areas - some for quiet play, some for active play, some for seating and some for shelter.
- Incorporate a variety of surfaces, suitable shading and allows for a range of varied play options.
- Allow for adequate supervision of the playground both from the yard area and indoors.
- Be safe, functional and incorporate undulations, natural shade and attractive landscaping.

Entry and Security

- Entry/Exit points within the centre must be legible and appropriately located. Particular consideration is to be given to child security, with one secure entry/exit point which is to incorporate a transitional space.

7.3.9 Waste Management

Objectives

- i. Ensure all waste generated by the Child Care Centre is appropriately managed to minimise any impacts on adjoining properties.
- ii. Ensure a safe and clean environment is provided for the children and staff of the Child Care Centre.

Requirements

- Adequate and appropriate space non-accessible to children for the storage of rubbish and recycling bins must be provided on the site.
- All hazardous and clinical (bodily fluid) wastes are to be stored and disposed of in accordance with the requirements of the NSW Department of Health, specifically in terms of the nature of the use of the premises.
- Details of waste management are required to be submitted with the Development Application.

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7.3.10 Visual Privacy and Acoustic Amenity

Objectives

- I. Ensure aural and visual privacy to adjoining properties.
- II. Provide adequate visual and/or acoustic screening on the perimeter of the site.

Requirements

Visual Privacy

- Provide screenings by trees, fencing and/or window coverings to minimise noise and overlooking impacts to adjoining properties.
- Locate any play equipment at least 3 metres from any boundary with a residential property.

Acoustic Amenity

- For traffic noise, the following criteria are recommended (measured as the maximum L₁₀ (1 hour):
 - Indoor noise levels must not exceed 48dB(A); and
 - Outdoor noise levels should not generally exceed a range of 55-60 dB(A) when measured at 1.5 metres above the ground level in the centre of any outdoor play area.
- Council requires a suitably qualified acoustic consultant to undertake an acoustic assessment, which is to include recommended noise attenuation measures to be submitted with any DA.

Note: Noise readings (measured at any point on the boundary of the site between the proposed Child Care centre and adjoining property), should not exceed 10dBA above the background noise level during the hours of operation of the Centre. The noise readings are to be measured over a 15-minute period and are to be undertaken in accordance with the requirements of the NSW Department of Environment and Conservation.

No "offensive noise" as defined within the provisions of the Protection of the Environment Operations Act 1997, shall be emitted from the premises as a result of the use of activities associated with the site.

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7.4 Restricted Premises

This Section applies to development for the purpose of restricted premises (see definition in Dictionary of Hurstville LEP 2012). The Council may consent to the carrying out of development for the purpose of a restricted premise only where the proposed site complies with the following objectives and controls, (in addition to any other conditions which may be imposed by the Council).

7.4.1 Access, Design and Location Requirements

Objectives

- i. Ensure restricted premises are located at a reasonable distance from residential occupancies and other sensitive land uses.
- ii. Exclude the location of restricted premises from ground floor or street level in a building.
- iii. Ensure safe access to restricted premises for staff and patrons.

Controls

- No part of the restricted premises (other than an access corridor to the premises) is to be located:
 - At the ground floor or street level of a building or within 1.5 metres, measured vertically, above or below the ground floor or street level of the building, or
 - In arcades, or
 - In other thoroughfares open to the public or used by the public, or
 - Within 100 metres walking distance of any residentially zoned land, or
 - Within 200 metres walking distance of any place of public worship, school, community facility, child care centre, hospital, rail station, bus stop, taxi stand or any place regularly frequented by children for recreational or cultural pursuits.
- No internal rooms or spaces of the restricted premises, other than an access corridor to the restricted premises, are to be visible from a public place or shopping arcade.
- Patron access is not to be provided from a laneway.
- No part of the restricted premises or building in which the premises will be situated, will be used as a dwelling unless separate access will be available to the dwelling.

7.4.2 Display of Goods and Signs

Additional provisions for advertising and signage and for the display of goods are required to ensure that their design and location take into consideration the specific characteristics of the restricted premises use.

7. Controls for Other Development Types

7.4 Restricted Premises

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Objectives

- i. Encourage appropriately designed and suitably located signs for restricted premises.
- ii. Consider the amenity of surrounding development and the visual quality of the public domain.

Controls

- No more than one sign is to be erected, displayed or exhibited to public view in the window or on a building (including the restricted premises), or in, outside or directly above an access way to the premises:
- A sign relating to restricted premises should:
 - Not interfere with the amenity of the locality,
 - Not exceed 600 millimetres in height or width,
 - Not contain neon illumination and not flash,
 - Set out only:
 - The name of the person who conducts the business at the restricted premises or the registered name of the business carried on at the restricted premises; and
 - The words, 'RESTRICTED PREMISES' in capital letters not more than 50 millimetres in height
 - No objects, products, or goods related to the restricted premises will be visible from outside the premises.

7.4.3 Extended Trading Hours

If the restricted premise proposes to trade between 12am (midnight) and 6am, compliance with extended trading hours provisions contained at Section 7.1 Trading Hours must be achieved.

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